

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 523 and 552

**[GSAR Change 64; GSAR Case 2006-G506; Docket No. 2009-0005;
Sequence No. 1]**

RIN 3090-A182

**General Services Administration Acquisition Regulation; GSAR
Case 2006-G506; Environmental, Conservation, Occupational Safety
and Drug-Free Workplace**

AGENCIES: Office of Acquisition Policy, General Services
Administration (GSA).

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is
issuing a final rule to amend the General Services
Administration Acquisition Regulation (GSAR) to update the
text and clauses regarding Hazardous Materials
Identification and Material Safety Data.

DATES: Effective: **[Insert Date of publication in the FEDERAL
REGISTER.]**

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Funk,
Procurement Analyst, at 215-446-4860, for clarification of
content. For information pertaining to status or
publication schedules, contact the Regulatory Secretariat
Division at 202-501-4755. Please cite GSAR Case 2006-G506.

SUPPLEMENTARY INFORMATION:

I. Background

GSA published a proposed rule in 2009 to update the text and clauses regarding Hazardous Materials Identification and Material Safety Data. A second proposed rule was issued in the Federal Register at 80 FR 8278, on February 17, 2015, due to the length of time since the original proposed rule was published in 2009 and updates to the regulations referenced in GSAM Subpart 523.3. No public comments were received on the proposed rule. One change was made for this final rule, which clarifies that the new GSAR clause 552.223-73 is only required in solicitations and contracts for packaged items containing hazardous materials.

II. Discussion and Analysis

The final rule changes the title of Part 523 to "Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace," to correspond to the title in FAR Part 23. The title for Subpart 523.3 is changed to "Hazardous Material Identification and Material Safety Data" to be consistent with the corresponding FAR subpart.

In addition, this final rule adds a new hazardous materials clause, GSAR clause 552.223-73. GSAR clause 552.223-73 Preservation, Packaging, Packing, Marking and

Labeling of Hazardous Materials (HAZMAT) For Shipments is added to require compliance by contractors regarding preservation, packaging, packing, marking, and labeling of hazardous materials. This clause is also added to the Provision and Clause Matrixes.

The GSAR provision at 552.212-72, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Items, is updated to include the new hazardous material clause 552.223-73.

III. Executive Order 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The General Services Administration certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because these changes will not substantively change the reporting, recordkeeping, or compliance requirements for contractors.

V. Paperwork Reduction Act

This final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 523 and 552

Government procurement.

Dated: June 17, 2015.

Jeffrey A. Koses,
*Senior Procurement Executive,
Office of Acquisition Policy,
Office of Government-wide Policy.*

Therefore, GSA amends 48 CFR parts 523 and 552 as set forth below:

**PART 523—ENVIRONMENT, ENERGY AND WATER EFFICIENCY,
RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND
DRUG-FREE WORKPLACE**

1. Revise the authority citation for 48 CFR part 523 to read as follows:

AUTHORITY: 40 U.S.C. 121(c).

2. Revise the part heading to read as set forth above.

3. Revise subpart heading 523.3 to read as set forth below.

**Subpart 523.3—Hazardous Material Identification and
Material Safety Data**

4. Amend section 523.303 by revising the section heading; and adding a new paragraph (c) to read as follows:

523.303 Contract clauses.

* * * * *

(c) Insert 552.223-73, Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) for Shipments, in solicitations and contracts for packaged items containing hazardous materials.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. The authority citation for part 552 continues to read as follows:

AUTHORITY: 40 U.S.C. 121(c).

6. Amend section 552.212-72 by revising the date of the clause and paragraph (b) to read as follows:

552.212-72 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Items.

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CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE
ORDERS APPLICABLE TO GSA ACQUISITION OF COMMERCIAL ITEMS **[JUN 2015]**

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(b) Clauses.

_____ 552.223-70 Hazardous Substances.

_____ 552.223-71 Nonconforming Hazardous Material.

_____ 552.223-73 Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) for Shipments.

_____ 552.238-70 Identification of Electronic Office Equipment Providing Accessibility for the Handicapped.

_____ 552.238-72 Identification of Products That Have Environmental Attributes.

(End of clause)

7. Add section 552.223-73 to read as follows:

552.223-73 Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) For Shipments.

As prescribed in 523.303(c), insert the following clause:

PRESERVATION, PACKAGING, PACKING, MARKING AND LABELING OF HAZARDOUS
MATERIALS (HAZMAT) FOR SHIPMENTS **[JUN 2015]**

(a) Definition. United States, as used in this clause, means the 48 adjoining U.S. States, Alaska, Hawaii, and U.S. territories and possessions, such as Puerto Rico.

(b) Preservation, packaging, packing, marking and labeling of hazardous materials for export shipment outside the United States in all transport modes shall comply with the following, as applicable:

(1) International Maritime Dangerous Goods (IMDG) Code as established by the International Maritime Organization (IMO).

(2) U.S. Department of Transportation (DOT) Hazardous Material Regulation (HMR) 49 CFR parts 171 through 180. (Note: Classifications permitted by the HMR, but not permitted by the IMDG code, such as Consumer Commodities classed as ORM-D, shall be packaged in accordance with the IMDG Code and dual-marked with both Consumer Commodity and IMDG marking and labeling.)

(3) Occupational Safety and Health Administration (OSHA) Regulation 29 CFR part 1910.1200.

(4) International Air Transport Association (IATA), Dangerous Goods Regulation and/or International Civil Aviation Organization (ICAO), Technical Instructions.

(5) AFMAN 24-204, Air Force Inter-Service Manual, Preparing Hazardous Materials For Military Air Shipments.

(6) Any preservation, packaging, packing, marking and labeling requirements contained elsewhere in this solicitation and contract.

(c) Preservation, packaging, packing, marking and labeling of hazardous materials for domestic shipments within the United States in all transport modes shall comply with the following; as applicable:

(1) U.S. Department of Transportation (DOT) Hazardous Material Regulation (HMR) 49 CFR parts 171 through 180.

(2) Occupational Safety and Health Administration (OSHA) Regulation 29 CFR part 1910.1200.

(3) Any preservation, packaging, packing, marking and labeling requirements contained elsewhere in this solicitation and contract.

(d) Hazardous Material Packages designated for outside the United States destinations through Forwarding Points, Distribution Centers, or Container Consolidation Points (CCPs) shall comply with the IMDG, IATA, ICAO or AFMAN 24-204 codes, as applicable.

(e) The test certification data showing compliance with performance-oriented packaging or UN-approved packaging requirements shall be made available to GSA contract administration/management representatives or regulatory inspectors upon request.

(End of clause)

[Billing Code: 6820-61]

[FR Doc. 2015-15413 Filed: 6/23/2015 08:45 am; Publication Date: 6/24/2015]